REMARKS/ARGUMENTS

Status of the Claims

Upon entry of the present response, claims 17-63 are pending. Claims 1-16 are canceled without disclaimer or prejudice to renewal. No new matter is added by the present amendments.

Response to Restriction Requirement

In response to the pending Restriction Requirement, Applicants elect the invention of Group III, claims 17-42 and 61-63, drawing to an anti-CD22 antibody and a kit thereof, with traverse.

The Examiner alleges that the inventions listed as Group III and Group IV do not relate to a single general inventive concept under PCT Rules 13.1 and 13.2, allegedly because the claims lack the same or corresponding special technical features. The Examiner alleges that the different compositions of Groups I-IV do not have a common core structure or function because there is no 1:1 correlation between DNA and protein. *See*, page 3 of the present Office Action. The claimed antibodies share a special technical feature that defines over the art, and the Examiner has not cited any reference to refute this.

With respect to the restriction between the antibodies of Group III and the polynucleotides of Group IV, Applicants do not agree with the Examiner. Groups III and IV are related in that the polynucleotides of Group IV encode the polypeptides of Group III. The genus of anti-CD22 antibodies recited in claims 17 and 43 is the same. The antibodies set forth in Groups III and IV share the common function of specifically binding to CD22 and share the common structure of the parent antibody, RFB4.

Example 39 of the PCT International Search and Preliminary Examination Guidelines[1] illustrates the case between the following claims:

> **Claim 1. Isolated protein X having SEQ ID NO: 1.**
>
> **Claim 2. Isolated DNA molecule encoding protein X of claim 1.**

The Guidelines conclude that "(t)he claimed DNA molecule encodes protein X, and therefore protein X and the DNA encoding protein X share a corresponding technical feature. Consequently, the claims have unity of invention."

In the present case, claim 17 recites:

> **An antibody that specifically binds CD22, said anti-CD22 antibody having a variable light (VL) chain comprising three complementarity determining regions (CDRs), and a variable heavy (VH) chain comprising three CDRs, wherein (i) said VL chain CDR1 has a sequence selected from the group consisting of SEQ ID NOs:7, 8, 9, and 10, (ii) said VL CDR2 has the sequence of SEQ ID NO:11, (iii) said VL CDR3 has the sequence of SEQ ID NO:12, (iv) said VH CDR1 has the sequence of SEQ ID NO:13, (v) said VH CDR2 has the sequence of SEQ ID NO:14, and (vi) said VH CDR3 has a sequence selected from the group consisting of SEQ ID NOs:15, 16, 17, 18, and 19.**

Claim 43 recites:

> **An isolated nucleic acid encoding an antibody that specifically binds CD22, said anti-CD22 antibody has a variable light (VL) chain comprising three complementarity determining regions (CDRs), and a variable heavy (VH) chain comprising three CDRs, further wherein (i) said VL chain CDR1 has a sequence selected from the group consisting of SEQ ID NOs:7, 8, 9, and 10, (ii) said VL CDR2 has the sequence of SEQ ID NO:11, (iii) said VL CDR3 has the sequence of SEQ ID NO:12, (iv) said VH CDR1 has the sequence of SEQ ID NO:13, (v) said VH CDR2 has the sequence of SEQ ID NO:14, and (vi) said VH CDR3 has a sequence selected from the group consisting of SEQ ID NOs:15, 16, 17, 18, and 19.**

Like in Example 39 of the Guidelines, the nucleotides of claim 43 encode the antibodies of claim 17. Therefore, Applicants respectfully assert that unity of invention between Groups III and IV should be acknowledged in the instant case. Accordingly, the Examiner is respectfully requested to withdraw the restriction requirement between the claims of Groups III and IV.

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[1] MPEP Appendix AI, Annex B, "Unity of Invention," section (1) states that examples giving guidance on how the "unity of invention" principles may be interpreted in particular cases are set out in "the PCT International Search and Preliminary Examination Guidelines."

With respect to the restriction between the antibodies of Group III and the methods of Groups V and VI, Applicants respectfully point out to the Examiner that the same genus of anti-CD22 antibodies is set forth in claims 50 and 58. Example 1 of the PCT International Search and Preliminary Examination Guidelines illustrates the case between the claims of different categories, *i.e.*, composition and method:

> **Claim 2: Substance X.**
> **Claim 3: The (method of) use of substance X as an insecticide.**

In the present case, the substance claims of Group III and the method claims of Groups V and VI are in different categories. Like in Example 1 of the Guidelines, the method claims in Groups V and VI recite the very same genus of anti-CD22 antibodies recited in Group III. Therefore, Applicants respectfully assert that unity of invention between Groups III, V and VI should also be acknowledged in the instant case. Accordingly, the Examiner is respectfully requested to withdraw the restriction requirement between the claims of Groups III, V and VI.

At a minimum, should the Examiner maintain the restriction requirement between the claims of Groups III, V and VI, Applicants request rejoinder of the antibody composition and method claims.

Response to Species Election Requirement

In response to the pending species election, Applicants elect the following anti-CD22 antibody:

A) heavy chain CDR1 of SEQ ID NO:7
B) heavy chain CDR2 of SEQ ID NO:11
C) heavy chain CDR3 of SEQ ID NO:12
D) light chain CDR1 of SEQ ID NO:13
E) light chain CDR2 of SEQ ID NO:14
F) light chain CDR3 of SEQ ID NO:16
G) VH of SEQ ID NO:21
H) VL of SEQ ID NO:20

Applicants submit that claims 17-63 read on the elected species.

Applicants understand that upon allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which depend from or otherwise require all the limitations of an allowable generic claim as provided by 37 CFR § 1.141.

CONCLUSION

In view of the foregoing, examination at an early date is respectfully requested.

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 415-576-0200.

Respectfully submitted,

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